



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220908-0185]

RTID 0648-BL55

Fisheries of the Northeastern United States; Mid-Atlantic Golden Tilefish Fishery; Framework Adjustment 7 to Tilefish Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve and implement Framework Adjustment 7 to the Tilefish Fishery Management Plan, which includes 2022-2024 specifications for the golden tilefish fishery for fishing years 2022-2024, a change to the annual specifications process, and a change to the start of the golden tilefish fishing year. The proposed action is necessary to establish allowable harvest levels and other management measures to prevent overfishing while allowing optimum yield, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Tilefish Fishery Management Plan. This action is intended to ensure measures are based on the best scientific information available and increase flexibility, where possible, for the tilefish fishery.

DATES: Comments must be received on *[insert date 15 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0087, by either of the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2022-0087 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the Environmental Assessment prepared for this action, and other supporting documents for these proposed specifications, are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. These documents are also accessible via the Internet at <https://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Laura Hansen, Fishery Management Specialist, (978) 281-9225.

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council (Council) manages the golden tilefish fishery under the Tilefish Fishery Management Plan (FMP), which outlines the Council’s process for establishing annual specifications. The FMP requires the Council to recommend acceptable biological catch (ABC), annual catch limit (ACL), annual catch

target (ACT), total allowable landings (TAL), and other management measures, currently for up to 3 years at a time. The directed fishery is managed under an individual fishing quota (IFQ) program, with small amounts of non-IFQ catch allowed under an incidental permit. The Council's Scientific and Statistical Committee (SSC) provides an ABC recommendation to the Council to derive these catch limits. The Council makes recommendations to NMFS that cannot exceed the recommendation of its SSC. The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to ensure that they achieve the FMP objectives and are consistent with all applicable laws. Following this review, NMFS publishes the final specifications in the **Federal Register**.

2022-2024 Fishery Specifications

In 2020, the Council set specifications for 2021 and interim specifications for 2022. The 2022 interim specifications were set because of potential timing constraints associated with the 2021 management track stock assessment. The interim 2022 measures provided management measures for the start of the fishing year in the event that there was insufficient time for the Council to approve, and for us to implement, new specifications for the start of the 2022 fishing year (*i.e.*, November 1, 2021). The Council anticipated the use of the 2021 golden tilefish management track stock assessment to review, and possibly revise, the interim 2022 specifications and to set specifications for the 2023 and 2024 fishing seasons. At the July 2021 Scientific and Statistical Committee (SSC) and Monitoring Committee (MC) meetings, new catch and landing limits for the 2022 to 2024 fishing years were recommended to the Council.

After considering recommendations from the SSC, Tilefish MC, Tilefish Advisory Panel, and members of the public, the Council recommended specifications summarized in the table below. The new 2022 ABC represents a 20-percent increase

from the interim 2022 specifications, and would maintain a constant ABC for 2023 and 2024. The Council did not recommend any changes to the current recreational bag limit or commercial/incidental trip limit.

Table 1. Proposed specifications for 2022-2024

ABC	1,964,319 lb (891 mt)
ACL	1,964,319 (891 mt)
IFQ fishery ACT	1,763,478 (800 mt)
Incidental fishery ACT	92,815 (42 mt)
IFQ fishery TAL = ACT (no discards permitted in fishery)	1,763,478 lb (800 mt)
Incidental fishery TAL = Incidental fishery ACT - discards	75,410 lb (42 mt)
Incidental Trip Limit	500 lb (226.8 kg) or 50 percent, by weight, of all fish, including golden tilefish, on board the vessel, whichever is less
Recreational Bag Limit	8-fish recreational bag-size limit per angler, per trip

Multi-Year Specifications

Golden tilefish regulations currently allow multi-year annual specifications to be set for up to 3 years at a time. This action would modify the annual specifications process, so that specifications could be set for the maximum number of years needed to be consistent with the Northeast Region Coordinating Council approved stock assessment schedule. Multi-year regulations have been implemented for all fisheries managed by the Council to relieve some of the administrative demands on the Council and NMFS associated with annual specification requirements. Longer-term specifications also

provide greater regulatory consistency and predictability to the fishing sectors. This action would provide additional flexibility as specifications could be set to cover the time period until a new golden tilefish stock assessment is available. Stock assessments provide critical information for setting specifications, and in the period between assessments, there often is no new information that would lead to changes to annual specifications. The Council will continue its process of reviewing multi-year specifications each year to determine if any modifications are necessary.

Fishing Year Timing

Current regulations define the golden tilefish fishing year as the 12-month period beginning with November 1. This action would change the fishing year to match the calendar year and would start on January 1. The current fishing year was initially established when the FMP was adopted in 2001 to avoid adding to the administrative burden associated with the start of the calendar year. However, improvements that have since been made in permitting and data-reporting systems have reduced this concern. Changing the fishing year to the calendar year will also match the period used in the stock assessments and the cost recovery program for the golden tilefish IFQ fishery.

The 2022 fishing year began on November 1, 2021, and is operating under interim specifications. If this rule is finalized as proposed, the 2022 fishing year would run through December 31, 2022. The 2023 fishing year, and all subsequent fishing years, would begin on January 1.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tilefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

For Regulatory Flexibility Act purposes, NMFS has established a size standard for small businesses, including their affiliated operations, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as small if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11.0 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the 3 years from 2018 through 2020. Data was used from 2018 to 2020, not 2021, because 2020 is the most recent full year of ownership data available. The Small Business Administration has established size standards for all other major industry sectors in the U.S., including defining for-hire fishing firms (NAICS code 487210) as small when their receipts are equal to or less than \$8 million.

The measures proposed in this action apply to vessels that hold a federal permit for golden tilefish. According to the ownership database, 143 affiliate firms landed golden tilefish during the 2018-2020 period, with 141 of those business affiliates categorized as small business and 2 categorized as large business. The 3-year average (2018-2020) combined gross receipts (all species combined) for all small entities only was \$132,194,765, and the average golden tilefish receipts was \$4,973,718. This indicates that golden tilefish revenues contributed approximately 3.76 percent of the total gross receipts for these small entities. The 2 firms that were categorized as large entities

had combined gross receipts of \$53,450,954 and combined golden tilefish receipts of \$417; as such, golden tilefish receipts as a proportion of gross receipts is <0.01 percent.

In general terms, the active commercial golden tilefish fishery participants (i.e., small firms that catch golden tilefish in the directed and incidental fisheries) derive a small share of overall gross receipts from the golden tilefish fishery. However, for small firms generating on average \$10,000 or more of their total revenues from golden tilefish revenues (e.g., more dependent on golden tilefish), a large number of the active participants generate a large share of gross receipts from the tilefish fishery.

A business primarily engaged in for-hire fishing activity is classified as a small business if it has combined annual receipts not in excess of \$8 million. According to the vessel ownership data, 361 for-hire affiliate firms generated revenues from fishing recreationally for various species during the 2018-2020 period; all of those business affiliates are categorized as small business. It is not possible to derive what proportion of the overall revenues for these for-hire firms came from specific fishing activities (e.g., summer flounder, scup, black sea bass, bluefish, groundfish, golden tilefish, weakfish, striped bass, tautog, pelagics). Nevertheless, given the relatively low popularity of golden tilefish as a recreational species in the Mid-Atlantic and New England regions, it is likely that revenues generated from golden tilefish is not significant for some, if not all, of these firms. The 3-year average (2018-2020) combined gross receipts (all for-hire fishing activity combined) for the small entities was \$49,916,903, ranging from less than \$10,000 for 105 entities (lowest value \$46) to over \$1,000,000 for 8 entities (highest value \$3,587,272).

The proposed measures in this action are administrative and the proposed specifications should have no negative impacts on these small businesses. This action will not have a significant economic impact on a substantial number of small entities.

This proposed rule contains no information collection requirements under the

Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 8, 2022.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Amend §648.292 by revising the introductory text paragraph (a) and paragraph (a)(1) to read as follows:

§648.292 Tilefish specifications.

(a) ***Golden Tilefish.*** The golden tilefish fishing year is the 12-month period beginning with January 1, annually.

(1) *Annual specification process.* The Tilefish Monitoring Committee shall review the ABC recommendation of the SSC, golden tilefish landings and discards information, and any other relevant available data to determine if the golden tilefish ACL, ACT, or total allowable landings (TAL) for the IFQ and/or incidental sectors of the fishery require modification to respond to any changes to the golden tilefish stock's biological reference points or to ensure any applicable rebuilding schedule is maintained. The Monitoring Committee will consider whether any additional management measures or revisions to existing measures are necessary to ensure that the IFQ and/or incidental TAL will not be exceeded. Based on that review, the Monitoring Committee will recommend golden tilefish ACL, ACTs, and TALs to the Tilefish Committee of the MAFMC. Based on these recommendations and any public comment received, the Tilefish Committee shall recommend to the MAFMC the appropriate golden tilefish ACL, ACT, TAL, and other management measures for both the IFQ and the incidental sectors of the fishery for a single fishing year or up to the maximum number of years needed to be consistent with the Northeast Regional Coordinating Council-approved stock assessment schedule. The MAFMC shall review these recommendations and any public comments received, and recommend to the Regional Administrator, at least 120 days prior to the beginning of the next fishing year, the appropriate golden tilefish ACL, ACT, TAL, the percentage of TAL allocated to research quota, and any management measures to ensure that the TAL will not be exceeded, for both the IFQ and the incidental sectors of the fishery, for the next fishing year, or up to maximum number of fishing years consistent with the Northeast Regional Coordinating Council-approved stock assessment schedule. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Administrator shall review these recommendations, and after such review, NMFS will publish a proposed rule in the **Federal Register**

specifying the annual golden tilefish ACL, ACT, TAL, and any management measures to ensure that the TAL will not be exceeded for the upcoming fishing year or years for both the IFQ and the incidental sectors of the fishery. After considering public comments, NMFS will publish a final rule in the **Federal Register** to implement the golden tilefish ACL, ACTs, TALs and any management measures. The previous year's specifications will remain effective unless revised through the specification process and/or the research quota process described in paragraph (a)(5) of this section. NMFS will issue notification in the **Federal Register** if the previous year's specifications will not be changed.

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